

REMARKS

This Amendment is filed in response to the FINAL OFFICE ACTION ("FOA") mailed on 30 June 2005. The FOA sets a shortened statutory period of reply of three months, making this Amendment due, with the payment of two months of extension fees, on or before 30 November 2005. Upon entry of the present amendments, claims 1-25 and 28-38 are pending.

In the FOA, claims 1-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Servan-Schreiber et al., U.S. Patent No. 6,892,354 (hereafter, the "354 Patent"). This rejection is hereby traversed and has been rendered moot in view of the present amendments to the claims. After entry of the present claim amendments each and every element of the pending claims is not anticipated by the '354 Patent because the '354 Patent does not teach a system or method comprising "an access request receipt module; a module configured to provide information in response to the access request; a module configured to present at least one message prior to completing display of the information; **_and a message selection module providing at least one message choice option**" (as recited in amended independent claim 1 (emphasis added)); "a web browser configured to receive and communicate a request to connect with a network node identified by an uniform resource locator and in response thereto to receive and present information provided by the network node; and a first module configured to determine a time period available for presenting one or more messages; a second module configured to present at least one message during the time period; and a message selection module providing, in response to a connection request, **at least option for choosing a message content category; whereby upon selecting at least one message content category, at least one message associated with a chosen message content category is presented to the user during the time period**" (as recited in amended independent claim 9 (emphasis added)); or "receiving a request from an Internet user, during a current Internet session, to establish a connection with a first Internet site, the request including an address identifying content available from an Internet site; estimating a first time period necessary to retrieve the content from the Internet site; identifying, in response to the request, **at least one message choice option** to present to the Internet user; processing an identification by a user of at least one of the at least one message choice option; and responsive to the identification, presenting at least one message associated wit the at least one message choice option during at least a portion of the first time period." (as recited in independent claim 21). In particular, the '354 Patent does not teach the "message choice option," and/or the use thereof, as variously recited in the presently amended independent claims. For at least this reason, independent claims 1, 9 and 21 are not anticipated by the '354 Patent.

Additionally, claim 2 is not anticipated by the '354 Patent does not teach the combination of "a user profile containing user demographic information; and a base message set from which the at least one message is chosen; wherein the choice of the message is based additionally on the user information." That is, the '354 Patent does not teach that both user demographic information and user choices may be used in selecting messages for presentation. Likewise, the '354 Patent does not teach the use of "user demographic information." Therefore, the '354 Patent does not anticipate claim 2.

The '354 Patent also fails to teach that "the user demographic information is specified by a user;..." Therefore, claim 8 is not anticipated by the '354 Patent for this additional reason. However, the FOA states that the '354 Patent teaches the limitations of claim 8 at column 4, lines 24-60. This passage, however, does not teach that "the user [demographic] information is specified by a user." Instead, it teaches that an "advertising data web site" exists (col. 4, line 46) and that the site may "supply to user selected advertising pages **in a manner similar to that of television and radio.**" (*Id.*, emphasis added) The Examiner cites no reference teaching or suggesting that television and radio advertisers, at the time of filing the '354 Patent, used "user information specified by a user" to identify those users to receive targeted advertising. Applicant is not aware of any such system existing at that time. Nor does the '354 Patent so teach.

Instead, the '354 Patent discloses the exact opposite. The '354 Patent discloses that advertising web site operators can obtain "user's preferences ... [based upon] the particular content pages that are retrieved and viewed by users." ('354 Patent, col. 4, lines 53-55.) Common sense suggests that a user does not "specify" information about themselves simply by accessing a web page. If such were the case, user's inadvertently "clicking" upon hyperlinks set forth in banner advertisements would presumably be interested in or have a need for Viagra®, a real estate Mortgage, or the like. But, such is often not the case. A web page access simply indicates that the user, for whatever reason, issued a query for content associated with a particular web page. A web page access request does not contain and does not suggest "user information specified by a user" as set forth in dependent claim 8.

Further, the '354 Patent's disclosure that "other information including statistical profiles of users, ... may be used ..." (col. 4, lines 57-60) does not teach that user information is "specified by a user" as recited in claim 8. It suggests the diametric opposite. A "statistical profiles of users" necessarily requires a data set of more than one user. The '354 Patent does not teach that such data set is "specified by a user" or how a user could so specify (assuming they even possessed such information). Thus, given its broadest interpretation, the '354 Patent simply does not teach that "user demographic information" is

utilized or that the “user demographic information is specified by a user.” Therefore, for at least these reasons, claim 8 is further patentable over the ‘354 Patent.

The ‘354 Patent also does not teach a system comprising “a message selection module providing, in response to a connection request, at least option for choosing a message content category; whereby upon selecting at least one message content category, at least one message associated with a chosen message content category is presented to the user during the time period ” – as recited in claim 9. Therefore, for at least this reason, claim 9 and those claims variously depending therefrom are not anticipated by the ‘354 Patent.

All of the limitations of claim 12, as amended hereby, are also not taught by the ‘354 Patent. For example, the ‘354 Patent does not teach that “the information comprises a given quantity of data and the time period is determined based upon the quantity of data to be received and network bandwidth.” Thus, this claim is also not anticipated by the ‘354 Patent.

Regarding dependent claim 20, the ‘354 Patent does not teach that “the message presented is selected based upon the amount of the information provided by the network node.” The FOA states that column 4, lines 42-60 of the ‘354 Patent teaches this limitation. Such reliance on this passage, however, is mistaken because this passage discloses that messages are based upon “user preferences” and/or “statistical profiles of users.” Also, it provides that the messages web site has “no relationship with the particular content pages that are to be retrieved and displayed to the user.” (col. 4, lines 42-46.) Thus, the ‘354 Patent teaches away from the system recited in claim 20 by disclosing that messages are not linked to the information requested and instead are based upon specific preferences and profiles. Therefore, for at least this additional reason, the ‘354 Patent does not anticipate dependent claim 20.

Regarding independent claim 21, the ‘354 Patent also does not teach a method comprising, “processing an identification by a user of the at least one message content category; and responsive to the identified message content category, presenting at least one message during at least a portion of the first time period.” Therefore, for at least this reason, claims 21-25 and 28-31 are patentable over the ‘354 Patent.

Last all of the dependent claims, including those specifically addressed above, depend from a non-anticipated independent claim. Therefore, each of claims 1-38 are patentable over the cited prior art of record. Issuance of a Notice of Allowance for each of pending claims 1-38 is respectfully requested.

This Amendment is submitted contemporaneously with a Request for Continued Examination and a petition for a two-month extension of time in accordance with 37 CFR § 1.136(a). Accordingly, a check in the amount of \$1,640.00 (\$790.00 for RCE fee, \$450.00 for two-month extension of time fee and \$400.00 for excess claims fee) is enclosed. The Applicant believes no further fees or petitions are required. However, if any such petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

If the Examiner should require any additional information or otherwise desires to discuss the present matter with Applicant's attorney, please contact the undersigned attorney at (303) 260-6362.

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Respectfully submitted,


John T. Kennedy, Registration No. 42,717
Attorney for Applicant
USPTO Customer No. 20686

DORSEY & WHITNEY LLP
370 Seventeenth Street, Suite 4700
Denver, Colorado 80202-5647
Tel: 303-629-3400
Fax: 303-629-3450